

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD**

**SAN DIEGO REGION**

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**ORDER NO. R9-2007-0009  
 NPDES NO. CA0109011**

**WASTE DISCHARGE REQUIREMENTS FOR THE  
 JACK AND MARK STIEFEL DAIRY**

The following Discharger is subject to waste discharge requirements as set forth in this Order:

**Table 1. Discharger Information**

<b>Discharger</b>	<b>Mark Stiefel</b>
<b>Name of Facility</b>	<b>Jack and Mark Stiefel Dairy</b>
<b>Facility Address</b>	<b>32750 Holland Road</b>
	<b>Winchester, CA 92596</b>
	<b>Riverside County</b>
The U.S. Environmental Protection Agency (USEPA) and the Regional Water Quality Control Board have classified this discharge as a minor discharge.	

The discharge by the Mark Stiefel from the discharge points identified below is subject to waste discharge requirements as set forth in this Order:

**Table 2. Discharge Location**

<b>Discharge Point</b>	<b>Effluent Description</b>	<b>Discharge Point Latitude</b>	<b>Discharge Point Longitude</b>	<b>Receiving Water</b>
001	Manure, litter, wash water from production areas; manure from storage piles and land application areas; nutrient laden storm water	33 °, 39', 50.8" N	117 °, 05', 42.5" W	Surface Water: Warm Springs Creek, a tributary to the Santa Margarita River of the Santa Margarita Watershed  Groundwater: Domenigoni Subarea (902.35) of the Murrieta Hydrologic Area (902.30) of the Santa Margarita Hydrologic Unit (902.00)

**Table 3. Administrative Information**

This Order was adopted by the Regional Water Quality Control Board on:	<b>January 24, 2007</b>
This Order shall become effective on:	<b>January 24, 2007</b>
This Order shall expire on:	<b>December 13, 2011</b>
The Discharger shall file a Report of Waste Discharge in accordance with title 23, California Code of Regulations, as application for issuance of new waste discharge requirements no later than:	<b>180 days prior to the Order expiration date</b>

IT IS HEREBY ORDERED, that this Order supercedes Order No. 2000-018 except for enforcement purposes, and, in order to meet the provisions contained in division 7 of the Water Code (commencing with section 13000) and regulations adopted thereunder, and the provisions of the federal Clean Water Act (CWA) and regulations and guidelines adopted thereunder, the Discharger shall comply with the requirements in this Order.

I, John H. Robertus, Executive Officer, do hereby certify that this Order with all attachments is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, San Diego Region, on January 24, 2007.

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JOHN H. ROBERTUS, Executive Officer

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## I. FACILITY INFORMATION

The following Discharger is subject to waste discharge requirements as set forth in this Order:

**Table 4. Facility Information**

<b>Discharger</b>	<b>Mark Stiefel</b>
<b>Name of Facility</b>	<b>Jack and Mark Stiefel Dairy</b>
<b>Facility Address</b>	<b>32750 Holland Road</b>
	<b>Winchester, CA 92596</b>
	<b>Riverside County</b>
<b>Facility Contact, Title, and Phone</b>	<b>Mark Stiefel, Owner/Operator, (951) 926-1247</b>
<b>Mailing Address</b>	<b>Marcia Crouse 32750 Holland Road Winchester, CA 92596</b>
<b>Type of Facility</b>	<b>CAFO (Dairy)</b>
<b>Facility Design Flow</b>	<b>1,500 Milking Cows</b>

## II. FINDINGS

The California Regional Water Quality Control Board, San Diego Region (hereinafter Regional Water Board), finds:

**A. Background.** Mark Stiefel (hereinafter Discharger) is currently discharging pursuant to Order No. 2000-018 and National Pollutant Discharge Elimination System (NPDES) Permit No. CA0109011. The Discharger submitted a Report of Waste Discharge, dated October 20, 2004, and applied for a NPDES permit renewal to discharge manure, and process wastewater generated from the Jack and Mark Stiefel Dairy, hereinafter Facility. The application was deemed complete on November 18, 2004. Due to a lawsuit challenging U.S. EPA's Concentrated Animal Feeding Operation (CAFO) Rule, the U.S. Court of Appeals for the Second Circuit Court ruled on February 28, 2005 that, in issuing an NPDES permit, the permitting authority must include terms of a Nutrient Management Plan (NMP) as part of the permit, and must allow the public to review and comment on the NMP (see Finding D below). As a result of the court ruling, the Regional Board removed a tentative Order No. R9-2005-0095 from its April 13, 2005 Board agenda, and requested the Discharger to submit an NMP to the Regional Board. On November 30, 2005, the Regional Board received an NMP from the Discharger prepared by the Natural Resources Conservation Service, San Jacinto Office.

For the purposes of this Order, references to the "discharger" or "permittee" in applicable federal and state laws, regulations, plans, or policy are held to be equivalent to references to the Discharger herein.

**B. Facility Description.** The Discharger owns and operates a CAFO facility. Manure, litter, and wash water from production areas; manure from storage piles and land application areas; and nutrient laden storm water are generated at the Facility. The facility is currently permitted to discharge and manage waste volume not exceeding those attributable to a mature milking cow herd of 1500 cows being milked twice per day. As reported in the NMP, the facility uses approximately 15 gallons of water per milking cow per day. The Facility has five retention ponds, two auxiliary storage fields, with a total combined storage capacity of 2,682,000 ft<sup>3</sup>, which provide adequate storage capacity to contain wastewater production for 60 days, as well as run off from the production area and manured areas during a 24-hour, 25-year storm event. However, without adequate measures and best management practice, wastewater and storm water runoff could discharge into the Warm Springs Creek, a tributary to the Santa Margarita River of the Santa Margarita Watershed, as well as groundwater in the Domenigoni Subarea (902.35) of the Murrieta Hydrologic Area (902.30) of the Santa Margarita Hydrologic Unit (902.00). Attachment B provides a map of the area around the facility. Attachment C provides a flow schematic of the facility.

**C. Legal Authorities.** This Order is issued pursuant to section 402 of the federal Clean Water Act (CWA) and implementing regulations adopted by the U.S. Environmental Protection Agency (USEPA) and chapter 5.5, division 7 of the California Water Code (commencing with section 13370). It shall serve as a NPDES permit for point source discharges from this facility to surface waters. This Order also serves as Waste Discharge Requirements (WDRs) pursuant to article 4, chapter 4, Division 7 of the Water Code (commencing with section 13260).

#### **D. U.S. EPA Proposed Rule Change**

U.S. EPA's 2003 CAFO rule required all CAFOs to seek coverage under an NPDES permit. CAFO industry organizations and environmental groups filed petitions for judicial review of certain aspects of the 2003 CAFO rule. On February 28, 2005, the U.S. Court of Appeals for the Second Circuit ruled on these petitions and upheld most provisions of the 2003 rule but vacated and remanded others. In response to the court ruling, U.S. EPA issued a proposed rule on June 30, 2006 (Federal Register Vol. 71, No. 126), intends to make only those changes necessary to address the court's decision. First, EPA proposes to require only the owners and operators of those CAFOs that discharge or propose to discharge to seek coverage under a permit. Second, EPA proposes to require CAFOs seeking coverage under a permit to submit their nutrient management plan (NMP) with their application for an individual permit or notice of intent to be authorized under a general permit. Permitting authorities would be required to review the plan and provide the public with an opportunity for meaningful public review and comment. Permitting authorities would also be required to incorporate terms of the NMP as NPDES permit conditions. Third, this action proposes to authorize permit writers, upon request by a CAFO, to establish best management, zero discharge effluent limitations when the facility demonstrates that it has designed an open containment system that will comply with the no discharge requirements. The

proposed rule also responds to the court's remand orders regarding water-quality based effluent limitations (WQBELs) and pathogens.

- E. Background and Rationale for Requirements.** The Regional Water Board developed the requirements in this Order based on information submitted as part of the application, through monitoring and reporting programs, and other available information. The Fact Sheet (Attachment F), which contains background information and rationale for Order requirements, is hereby incorporated into this Order and constitutes part of the Findings for this Order. Attachments A through E and G through I are also incorporated into this Order.
- F. California Environmental Quality Act (CEQA).** Under Water Code section 13389, this action to adopt an NPDES permit is exempt from the provisions of CEQA, Public Resources Code sections 21100-21177.
- G. Technology-based Effluent Limitations.** Section 301(b) of the CWA and implementing USEPA permit regulations at section 122.44, title 40 of the Code of Federal Regulations<sup>1</sup>, require that permits include conditions meeting applicable technology-based requirements at a minimum, and any more stringent effluent limitations necessary to meet applicable water quality standards. A detailed discussion of the technology-based effluent limitations is included in the Fact Sheet.
- H. Water Quality-Based Effluent Limitations.** Section 301(b) of the CWA and section 122.44(d) require that permits include limitations more stringent than applicable federal technology-based requirements where necessary to achieve applicable water quality standards. A detailed discussion of the water quality-based effluent limitations is included in the Fact Sheet.
- I. Water Quality Control Plans.** The Regional Water Board adopted a Water Quality Control Plan for the San Diego Region (hereinafter Basin Plan) on September 8, 1994 that designates beneficial uses, establishes water quality objectives, and contains implementation programs and policies to achieve those objectives for all waters addressed through the plan. The Basin Plan incorporates Regional Board dairy waste management policy (Resolution No. 87-71) to be implemented as one of the Basin Plan's regulatory programs. In addition, the Basin Plan implements State Water Resources Control Board (State Water Board) Resolution No. 88-63, which established state policy that all waters, with certain exceptions, should be considered suitable or potentially suitable for municipal or domestic supply. Beneficial uses applicable to the Warm Spring Creek and groundwater in the Domenigoni Subarea (902.35) of the Murrieta Hydrologic Area (902.30) of the Santa Margarita Hydrologic Unit (902.00) are as follows:

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<sup>1</sup> All further statutory references are to title 40 of the Code of Federal Regulations unless otherwise indicated.

**Table 5. Beneficial Uses.**

Discharge Point	Receiving Water Name	Beneficial Use(s)
001	Warm Spring Creek	<u>Existing:</u> Municipal (MUN); Agricultural Supply (AGR); Industrial Service Supply (IND); Industrial Process Supply (PROC); Non-contact Water Recreation (REC-2); Warm Fresh water Habitat (WARM); and Wildlife Habitat (WILD) <u>Potential:</u> Contact Water Recreation (REC-1)
	Ground waters(s) in the Domenigoni Subarea (902.35) of the Murrieta Hydrologic Area (902.30) of the Santa Margarita Hydrologic Unit (902.00)	<u>Existing:</u> Municipal (MUN); Agricultural Supply (AGR); Industrial Service Supply (IND); and Industrial Process Supply (PROC). <u>Intermittent:</u> None. <u>Potential:</u> None.

Requirements of this Order implement the Basin Plan.

**J. Alaska Rule.** On March 30, 2000, USEPA revised its regulation that specifies when new and revised state and tribal water quality standards (WQS) become effective for CWA purposes. (40 C.F.R. § 131.21; 65 Fed. Reg. 24641 (April 27, 2000).) Under the revised regulation (also known as the Alaska rule), new and revised standards submitted to USEPA after May 30, 2000, must be approved by USEPA before being used for CWA purposes. The final rule also provides that standards already in effect and submitted to USEPA by May 30, 2000 may be used for CWA purposes, whether or not approved by USEPA.

**K. Antidegradation Policy.** Section 131.12 requires that the state water quality standards include an antidegradation policy consistent with the federal policy. The State Water Board established California’s antidegradation policy in State Water Board Resolution No. 68-16. Resolution No. 68-16 incorporates the federal antidegradation policy where the federal policy applies under federal law. Resolution No. 68-16 requires that existing quality of waters be maintained unless degradation is justified based on specific findings. The Regional Water Board’s Basin Plan implements, and incorporates by reference, both the state and federal antidegradation policies. As discussed in detail in the Fact Sheet the permitted discharge is consistent with the antidegradation provision of section 131.12 and State Water Board Resolution No. 68-16.

- L. Anti-Backsliding Requirements.** Sections 402(o)(2) and 303(d)(4) of the CWA and federal regulations at title 40, Code of Federal Regulations section 122.44(l) prohibit backsliding in NPDES permits. These anti-backsliding provisions require effluent limitations in a reissued permit to be as stringent as those in the previous permit, with some exceptions where limitations may be relaxed. All discharge prohibitions in this Order are as stringent as the effluent limitations in the current Order.
- M. Endangered Species Act.** This Order does not authorize any act that results in the taking of a threatened or endangered species or any act that is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code sections 2050 to 2097) or the Federal Endangered Species Act (16 U.S.C.A. sections 1531 to 1544). This Order requires compliance with effluent limits, receiving water limits, and other requirements to protect the beneficial uses of waters of the state. The discharger is responsible for meeting all requirements of the applicable Endangered Species Act.
- N. Monitoring and Reporting.** Section 122.48 requires that all NPDES permits specify requirements for recording and reporting monitoring results. Water Code sections 13267 and 13383 authorizes the Regional Water Board to require technical and monitoring reports. The Monitoring and Reporting Program establishes monitoring and reporting requirements to implement federal and State requirements. This Monitoring and Reporting Program is provided in Attachment E.
- O. Standard and Special Provisions.** Standard Provisions, which apply to all NPDES permits in accordance with section 122.41, and additional conditions applicable to specified categories of permits in accordance with section 122.42, are provided in Attachment D. The discharger must comply with all standard provisions and the required nutrient management plan (NMP) per section 122.42, in the Special Provision.
- P. Notification of Interested Parties.** The Regional Water Board has notified the Discharger and interested agencies and persons of its intent to prescribe Waste Discharge Requirements for the discharge and has provided them with an opportunity to submit their written comments and recommendations. Details of notification are provided in the Fact Sheet of this Order.
- Q. Consideration of Public Comment.** The Regional Water Board, in a public meeting, heard and considered all comments pertaining to the discharge. Details of the Public Hearing are provided in the Fact Sheet of this Order.

### III. DISCHARGE PROHIBITIONS

- A. The discharger shall not cause pollution, contamination, or nuisance as those terms are defined in CWC Section 13050, as a result of the treatment, storage or discharge of wastes.



- B. Discharges of wastes, including windblown spray and runoff of effluent applied for irrigation, to lands which have not been specifically described to the Regional Board and for which valid Waste Discharge Requirements are not in force, are prohibited.
- C. The dumping or deposition of oil in any manner that may permit it to be washed into waters of the United States is prohibited.
- D. The wastewater or waste solids disposal operation shall not cause unusual odors or other nuisance beyond the limits of the dairy property.
- E. The Discharger shall comply with the waste discharge prohibitions contained in the Basin Plan.

#### **IV. EFFLUENT LIMITATIONS AND DISCHARGE SPECIFICATIONS**

##### **A. Effluent Limitations**

Whenever rainfall events cause an overflow of process wastewater from a facility designed, constructed, operated, and maintained to contain all process-generated wastewaters plus the runoff from a 25-year, 24-hour rainfall event at the location of the point source, any process wastewater pollutants in the overflow may be discharged into U.S. waters.

##### **B. Land Discharge Specifications**

Land discharges of liquid waste and soil waste are not allowed within the property or at a property which is owned, rented, or leased by the CAFO owner or operator. Discharges of facility wastewater to disposal fields shall not result in surface runoff from disposal fields and shall be managed to minimize percolation to ground water.

#### **V. RECEIVING WATER LIMITATIONS**

##### **A. Surface Water Limitations**

Discharges from the facility shall not, by themselves or jointly with any other discharge or discharges, cause violation of the water quality objectives, established in the Basin Plan for Warm Spring Creek surface water in the Santa Margarita River Watershed (Table 3-2).

##### **B. Groundwater Limitations**

The storage, transport, evaporation, and disposal of animal waste and process wastewater shall not cause the TDS concentration of the ground water to exceed 2,000 mg/L.

#### **VI. PROVISIONS**

##### **A. Special Provisions**

## 1. Nutrient Management Plan (NMP)

The Discharger shall implement the following best management practices and procedures, which are necessary to implement applicable effluent limitations and standards:

- a. *Take appropriate steps to ensure adequate storage of manure, litter, and process wastewater, including procedures to ensure proper operation and maintenance of the storage facilities that include, but is not limited to:*

### Liquid Waste

- i. The discharge of facility wastewater shall not exceed a volume that is attributable to a mature milking cow herd size of 1,500 cows being milked twice per day unless the discharger submits for approval by the Regional Board a report certifying that the dairy has adequate facilities for a higher discharger volume.
- ii. Liquid waste shall not be applied to any cropland or pastureland within the property or at a property which is owned, rented, or leased by the CAFO owner or operator.
- iii. Wash water from the milking barn, flush alleys and other areas shall be collected and stored in the five waste storage ponds for evaporation. No other disposal methods shall be used.
- iv. The Discharger shall spread wastewater from the main storage pond to other ponds to increase evaporation rate.
- v. Waste storage ponds shall be lined with, or underlain by, soils which contain at least 10 percent clay and not more than 10 percent gravel, or artificial materials of equivalent impermeability.
- vi. Waste storage ponds shall be designed, constructed and managed to contain (1) process wastewater generated over a period of 60 days, and (2) all runoff from corrals and other manured areas from a 25-year, 24-hour storm.
- vii. Water levels in the waste storage ponds shall be sufficiently lowered by November 1, of each year to provide adequate storage capacity prior to the beginning of the wet weather periods. As specified in 40 CFR 412.37 (a)(2), all open surface impoundments must have a depth marker which clearly indicates the minimum capacity necessary to contain the runoff and direct precipitation of the 25 year, 24-hour rainfall event.

- viii. All water lines, including drinking water or cooling water lines shall be inspected daily; the waste storage ponds shall be inspected weekly for levels indicated by the depth marker in paragraph (vii); and all storm water diversion devices, runoff diversion structures, and devices channeling contaminated storm water to the storage ponds shall be inspected weekly.

#### Solid Waste

- ix. Manured areas shall be maintained to prevent nuisance conditions and shall be managed to minimize infiltration of water into underlying soils. The corrals shall be cleaned of excess manure by October 1 of each year prior to the beginning of the rainy season.
  - x. Solid waste from the corrals, the separator, and the waste storage ponds shall be collected and removed from the property.
  - xi. Solid waste shall not be applied to any cropland or pastureland within the property or at a property which is owned, rented, or leased by the CAFO owner or operator.
  - xii. The Discharger shall not knowingly contribute to the improper disposal of manure hauled off-site. The manure hauled off the dairy property shall be recorded on manure manifest forms and properly applied or disposed of to ensure that the water quality is not adversely affected in the area.
  - xiii. Solid waste from the separator shall be stored in a confined area to prevent nuisance conditions, storm water run-on and run-off, and infiltration of liquid into groundwater.
  - xiv. The solid waste storage area shall be lined with or underlain by soils which contain at least 10 percent clay and not more than 10 percent gravel, or artificial materials of equivalent impermeability.
  - xv. The solid waste storage area shall be completely enclosed with a ramp entrance, to contain any liquid and a 25-year, 24-hour storm water.
  - xvi. The enclosures shall be maintained to prevent erosion, collapse, rodent or gopher holes, and excessive vegetation growth.
- b. *Take appropriate steps to ensure proper management of mortalities (i.e., dead animals) to ensure that they are not disposed of in a liquid manure, storm water, or process wastewater storage or treatment system that is not specifically designed to treat animal mortalities, that include, but is not limited to the following:*

- i. All dead animals must be removed from the property and taken to a rendering plant for disposal.
- c. *Take appropriate steps to ensure that clean water is diverted, as appropriate, from the production area that include, but is not limited to the following:*
  - i. All surface drainage from outside the facility shall be diverted away from any manured areas unless such drainage is fully contained.
  - ii. Storm water diversions shall be constructed and maintained around the solid waste storage area.
- d. *Take appropriate steps to prevent direct contact of confined animals with waters of the United States that include, but is not limited to the following:*
  - i. The Discharger shall install a fence on the south side of the storm water diversion in Field 11 to keep any cows from crossing over the diversion.
- e. *Take appropriate steps to ensure that chemicals and other contaminants handled on-site are not disposed of in any manure, litter, process wastewater, or storm water storage or treatment system unless specifically designed to treat such chemicals and other contaminants.*
- f. *Implement protocols for appropriate testing of manure, litter, process wastewater, and soil in accordance with 40 CFR 412.4 (c) [40 CFR 122.42(e)(1)(vii), that include, but is not limited to the following:*
  - i. Prior to transferring manure to other persons, the Discharger shall provide the recipient of the manure with the most current nutrient analysis [40 CFR 122.42(e)(3)]. Manure must be analyzed a minimum of once annually for nitrogen and phosphorous content.
  - ii. The Discharger must retain for five years records of the date, recipient name and address, and approximate amount of manure, litter or process wastewater transferred to another person.
- g. *Maintain records on-site, for a period of five years, and be submitted to the Regional Board upon request [40 CFR 412.37 (b)].*

## **2. Facility Management**

The Discharger shall, at all times, properly operate and maintain all facilities and systems of waste disposal (and related appurtenances) which are installed or used by the Discharger to achieve compliance with the conditions of this Order. Proper operations and maintenance include the routine inspection, maintenance, and repair of drainage channels, culverts, ponds, irrigation equipment and related wastewater or

runoff collection structures or equipment to ensure that the proper capacity is maintained.

### **3. Flood Protection**

All waste treatment, containment and disposal facilities shall be protected from inundation or washout by overflow from any stream channel during 100-year peak stream flow.

### **4. Reopener Provisions**

This Order may be modified, revoked and reissued, or terminated for cause including, but not limited to, the following:

- a. Violation of any terms or conditions of this Order;
- b. Obtaining this Order by misrepresentation or failure to disclose fully all relevant facts;
- c. A change in any condition that requires either a temporary or permanent reduction or elimination of the authorized discharge.

The filing of a request by the discharger for modifications, revocation and reissuance, or termination of this Order, or a notification of planned change in or anticipated noncompliance with this Order does not stay any condition of this Order.

- d. If any applicable toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is promulgated under Section 307(a) of the CWA for a toxic pollutant and that standard or prohibition is more stringent than any limitation on the pollutant in this Order, the Regional Board may institute proceedings under these regulations to modify or revoke and reissue the Order to conform to the toxic effluent standard or prohibition.
- e. This Order may be reopened and modified, to incorporate in accordance with the provisions set forth in 40 CFR Parts 122 and 124, to include requirements for the implementation of the watershed management approach.
- f. This Order may be reopened and modified, in accordance with the provisions set forth in 40 CFR Parts 122 and 124, to include new Minimum Levels (ML).
- g. This Order may be reopened and modified to revise effluent limitations as a result of future Basin Plan Amendments, or the adoption of a total maximum daily load allocation (TMDL).

- h. This Order may be reopened upon submission by the Discharger of adequate information, as determined by the Regional Board, to provide for dilution credits or a mixing zone, as may be appropriate.
- i. This Order may be reopened and modified to revise the toxicity language once that language becomes standardized.
- j. This Order may also be reopened and modified, revoked, and reissued or terminated in accordance with the provisions of 40 CFR sections 122.44, 122.62 to 122.64, 125.62, and 125.64. Causes for taking such actions include, but are not limited to, failure to comply with any condition of this Order and permit, and endangerment to human health or the environment resulting from the permitted activity.

## **5. Special Studies, Technical Reports and Additional Monitoring Requirements**

Core monitoring may include intake monitoring, effluent monitoring, receiving water monitoring, and groundwater monitoring. This Order includes core monitoring for groundwater. In addition to the core monitoring requirements, the Discharger may be required to conduct the following monitoring requirements:

### **a. Regional Watershed Monitoring**

The Discharger shall participate and coordinate with state and local agencies and other dischargers in the San Diego Region in development and implementation of a regional monitoring program as directed by the Regional Board. The intent of a regional monitoring program is to maximize the efforts of all monitoring partners using a more cost-effective monitoring design and to best utilize the pooled resources of the region. During a coordinated sampling effort, the Discharger's monitoring program effort may be expanded to provide a regional assessment of the impact of discharges to the receiving water.

### **b. Special Studies**

Special studies are intended to be short-term and designed to address specific research or management issues that are not addressed by the routine core-monitoring program. The Discharger shall implement special studies as directed by this Regional Board.

## **B. Standard Provisions**

1. The Discharger shall comply with all Federal Standard Provisions included in Attachment D of this Order.
2. The Discharger shall comply with the following Regional Water Board provisions:

- a. Neither the treatment nor the discharge of waste shall create a pollution, contamination, or nuisance as defined by Section 13050 of the California Water Code (CWC).
- c. The provisions of this Order are severable, and if any provision of this Order, or the application of any provision of this Order to any circumstances, is held invalid, the application of such provision to other circumstances, and the remainder of this Order, shall not be affected thereby.
- d. Upon application by any affected person, or on its own motion, the Regional Board may review and revise this permit.
- e. The discharger shall take all reasonable steps to minimize or correct any adverse impact on the environment resulting from noncompliance with this Order, including such accelerated or additional monitoring as may be necessary to determine the nature and impact of the noncompliance.
- f. The Porter-Cologne Water Quality Control Act provides for civil and criminal penalties comparable to, and in some cases greater than, those provided for under the CWA.

Nothing in this Order shall be construed to protect the discharger from its liabilities under federal, state, or local laws. Except as provided for in 40 CFR 122.41(m) and (n), nothing in this Order shall be construed to relieve the discharger from civil or criminal penalties for noncompliance.

Nothing in this Order shall be construed to preclude the institution of any legal action or relieve the discharger from any responsibilities, liabilities, or penalties to which the discharger is or may be subject to under Section 311 of the CWA.

Nothing in this Order shall be construed to preclude institution of any legal action or relieve the discharger from any responsibilities, liabilities, or penalties established pursuant to any applicable state law or regulation under authoring preserved by Section 510 of the CWA.

- g. Any noncompliance with this permit constitutes violation of the CWC and/or the CWA and is grounds for denial of an application for permit modification.
- h. No discharge of waste into waters of the state, whether or not the discharge is made pursuant to Waste Discharge Requirements, shall create a vested right to continue the discharge. All discharges of waste into waters of the state are privileges, not rights.
- i. After this permit expires, the terms and conditions of this permit are automatically continued pending issuance of a new permit if all requirements of the federal NPDES regulations on the continuation of expired permits are complied with.

- j. Any application submitted by the Discharger for reissuance or modification of this permit shall satisfy all applicable requirements specified in federal regulations as well as any additional requirements for submittal of a Report of Waste Discharge specified in the CWC and the California Code of Regulations (CCR).
- k. Except as provided for in 40 CFR 122.7, no information or documents submitted in accordance with or in application for this permit will be considered confidential and all such information and documents shall be available for review by the public at the office of the Regional Board.
- l. The Discharger shall conduct appropriate analyses on any sample provided by U.S. EPA as part of the discharge monitoring quality assurance (DMQA) program. The results of such analyses shall be submitted to U.S. EPA's DMQA manager.
- m. The discharger shall comply with any interim effluent limitations as established by addendum, enforcement action or revised Waste Discharge Requirements, which have been or may be adopted by this Regional Board.
- n. A copy of this Order shall be maintained on-site at the facility, and shall be available to operating personnel at all times.
- o. This Order shall become effective 10 days after the date of its adoption, provided the U.S. EPA Regional Administrator has no objection. If the Regional Administrator objects to its issuance, this Order shall not become effective until such objection is withdrawn.
- p. **This Order expires on December 13, 2011.** However, it will continue in force and effect until superceded by a new permit or rescinded.

### **C. Monitoring and Reporting Program (MRP) Requirements**

The Discharger shall comply with the MRP, and future revisions thereto, in Attachment E of this Order.

## **VII. COMPLIANCE DETERMINATION**

Compliance with effluent limitations or discharge specifications shall be determined as follows:

- A. If only one sample is collected during the time period associated with the effluent limitations (e.g., 30-day average or 6-month median), the single measurement shall be used to determine compliance with the effluent limitation for the entire time period.



- B. All analytical data shall be reported uncensored with detection limits and quantitation limits identified. For any effluent limitation, compliance shall be determined using appropriate statistical methods to evaluate multiple samples. Sufficient sampling and analyses shall be conducted to determine compliance.
- C. Calculations for all limitations that require averaging of measurements shall utilize an arithmetic mean unless otherwise specified in this Order or the Monitoring and Reporting Program (Attachment E).
- D. Minimum Levels (MLs), as defined by the SIP, represent the concentration at which the entire analytical system must give a recognizable signal and acceptable calibration point. The ML is the concentration in a sample that is equivalent to the concentration of the lowest calibration standard analyzed by a specific analytical procedure, assuming that all the method specified sample weights, volumes, and processing steps have been followed. The discharger shall select an analytical procedure for each pollutant for which the analytical procedure's corresponding Minimum Level (ML) is below the applicable effluent limitation. If the effluent limitation is below all the MLs identified for the pollutant in Appendix 4-1 of the SIP, the discharger shall select the lowest ML (and corresponding analytical method).
- G. Dischargers shall be deemed out of compliance with an effluent limitation or discharge specification if the concentration of the constituent in the monitoring sample is greater than the effluent limitation or discharge specification and greater than or equal to the Minimum Level (ML).

## ATTACHMENT A – DEFINITIONS

**Arithmetic Mean ( $\mu$ )**, also called the average, is the sum of measured values divided by the number of samples. For ambient water concentrations, the arithmetic mean is calculated as follows:

Arithmetic mean =  $\mu = \Sigma x / n$       where:  $\Sigma x$  is the sum of the measured ambient water concentrations, and  $n$  is the number of samples.

**Average Monthly Effluent Limitation (AMEL)**: the highest allowable average of daily discharges over a calendar month, calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month.

**Average Weekly Effluent Limitation (AWEL)**: the highest allowable average of daily discharges over a calendar week (Sunday through Saturday), calculated as the sum of all daily discharges measured during a calendar week divided by the number of daily discharges measured during that week.

**Bioaccumulative** pollutants are those substances taken up by an organism from its surrounding medium through gill membranes, epithelial tissue, or from food and subsequently concentrated and retained in the body of the organism.

**Carcinogenic** pollutants are substances that are known to cause cancer in living organisms.

**Coefficient of Variation (CV)** is a measure of the data variability and is calculated as the estimated standard deviation divided by the arithmetic mean of the observed values.

**Daily Discharge**: Daily Discharge is defined as either: (1) the total mass of the constituent discharged over the calendar day (12:00 am through 11:59 pm) or any 24-hour period that reasonably represents a calendar day for purposes of sampling (as specified in the permit), for a constituent with limitations expressed in units of mass or; (2) the unweighted arithmetic mean measurement of the constituent over the day for a constituent with limitations expressed in other units of measurement (e.g., concentration).

The daily discharge may be determined by the analytical results of a composite sample taken over the course of one day (a calendar day or other 24-hour period defined as a day) or by the arithmetic mean of analytical results from one or more grab samples taken over the course of the day.

For composite sampling, if 1 day is defined as a 24-hour period other than a calendar day, the analytical result for the 24-hour period will be considered as the result for the calendar day in which the 24-hour period ends.

**Detected, but Not Quantified (DNQ)** are those sample results less than the RL, but greater than or equal to the laboratory's MDL.

**Dilution Credit** is the amount of dilution granted to a discharge in the calculation of a water quality-based effluent limitation, based on the allowance of a specified mixing zone. It is calculated from the dilution ratio or determined through conducting a mixing zone study or modeling of the discharge and receiving water.

**Effluent Concentration Allowance (ECA)** is a value derived from the water quality criterion/objective, dilution credit, and ambient background concentration that is used, in conjunction with the coefficient of variation for the effluent monitoring data, to calculate a long-term average (LTA) discharge concentration. The ECA has the same meaning as waste load allocation (WLA) as used in U.S. EPA guidance (Technical Support Document For Water Quality-based Toxics Control, March 1991, second printing, EPA/505/2-90-001).

**Enclosed Bays** means indentations along the coast that enclose an area of oceanic water within distinct headlands or harbor works. Enclosed bays include all bays where the narrowest distance between the headlands or outermost harbor works is less than 75 percent of the greatest dimension of the enclosed portion of the bay. Enclosed bays include, but are not limited to, Humboldt Bay, Bodega Harbor, Tomales Bay, Drake's Estero, San Francisco Bay, Morro Bay, Los Angeles-Long Beach Harbor, Upper and Lower Newport Bay, Mission Bay, and San Diego Bay. Enclosed bays do not include inland surface waters or ocean waters.

**Estimated Chemical Concentration** is the estimated chemical concentration that results from the confirmed detection of the substance by the analytical method below the ML value.

**Estuaries** means waters, including coastal lagoons, located at the mouths of streams that serve as areas of mixing for fresh and ocean waters. Coastal lagoons and mouths of streams that are temporarily separated from the ocean by sandbars shall be considered estuaries. Estuarine waters shall be considered to extend from a bay or the open ocean to a point upstream where there is no significant mixing of fresh water and seawater. Estuarine waters included, but are not limited to, the Sacramento-San Joaquin Delta, as defined in Water Code section 12220, Suisun Bay, Carquinez Strait downstream to the Carquinez Bridge, and appropriate areas of the Smith, Mad, Eel, Noyo, Russian, Klamath, San Diego, and Otay rivers. Estuaries do not include inland surface waters or ocean waters.

**Inland Surface Waters** are all surface waters of the State that do not include the ocean, enclosed bays, or estuaries.

**Instantaneous Maximum Effluent Limitation:** the highest allowable value for any single grab sample or aliquot (i.e., each grab sample or aliquot is independently compared to the instantaneous maximum limitation).

**Instantaneous Minimum Effluent Limitation:** the lowest allowable value for any single grab sample or aliquot (i.e., each grab sample or aliquot is independently compared to the instantaneous minimum limitation).

**Maximum Daily Effluent Limitation (MDEL)** means the highest allowable daily discharge of a pollutant, over a calendar day (or 24-hour period). For pollutants with limitations expressed in units of mass, the daily discharge is calculated as the total mass of the pollutant discharged

over the day. For pollutants with limitations expressed in other units of measurement, the daily discharge is calculated as the arithmetic mean measurement of the pollutant over the day.

**Median** is the middle measurement in a set of data. The median of a set of data is found by first arranging the measurements in order of magnitude (either increasing or decreasing order). If the number of measurements ( $n$ ) is odd, then the median =  $X_{(n+1)/2}$ . If  $n$  is even, then the median =  $(X_{n/2} + X_{(n/2)+1})/2$  (i.e., the midpoint between the  $n/2$  and  $n/2+1$ ).

**Method Detection Limit (MDL)** is the minimum concentration of a substance that can be measured and reported with 99 percent confidence that the analyte concentration is greater than zero, as defined in title 40 of the Code of Federal Regulations, Part 136, Attachment B, revised as of July 3, 1999.

**Minimum Level (ML)** is the concentration at which the entire analytical system must give a recognizable signal and acceptable calibration point. The ML is the concentration in a sample that is equivalent to the concentration of the lowest calibration standard analyzed by a specific analytical procedure, assuming that all the method specified sample weights, volumes, and processing steps have been followed.

**Mixing Zone** is a limited volume of receiving water that is allocated for mixing with a wastewater discharge where water quality criteria can be exceeded without causing adverse effects to the overall water body.

**Not Detected (ND)** are those sample results less than the laboratory's MDL.

**Ocean Waters** are the territorial marine waters of the State as defined by California law to the extent these waters are outside of enclosed bays, estuaries, and coastal lagoons. Discharges to ocean waters are regulated in accordance with the State Water Board's California Ocean Plan.

**Persistent** pollutants are substances for which degradation or decomposition in the environment is nonexistent or very slow.

**Pollutant Minimization Program (PMP)** means waste minimization and pollution prevention actions that include, but are not limited to, product substitution, waste stream recycling, alternative waste management methods, and education of the public and businesses. The goal of the PMP shall be to reduce all potential sources of a priority pollutant(s) through pollutant minimization (control) strategies, including pollution prevention measures as appropriate, to maintain the effluent concentration at or below the water quality-based effluent limitation. Pollution prevention measures may be particularly appropriate for persistent bioaccumulative priority pollutants where there is evidence that beneficial uses are being impacted. The Regional Water Board may consider cost effectiveness when establishing the requirements of a PMP. The completion and implementation of a Pollution Prevention Plan, if required pursuant to Water Code section 13263.3(d), shall be considered to fulfill the PMP requirements.

**Pollution Prevention** means any action that causes a net reduction in the use or generation of a hazardous substance or other pollutant that is discharged into water and includes, but is not limited to, input change, operational improvement, production process change, and product

reformulation (as defined in Water Code section 13263.3). Pollution prevention does not include actions that merely shift a pollutant in wastewater from one environmental medium to another environmental medium, unless clear environmental benefits of such an approach are identified to the satisfaction of the State or Regional Water Board.

**Reporting Level (RL)** is the ML (and its associated analytical method) chosen by the Discharger for reporting and compliance determination from the MLs included in this Order. The MLs included in this Order correspond to approved analytical methods for reporting a sample result that are selected by the Regional Water Board either from Appendix 4 of the SIP in accordance with section 2.4.2 of the SIP or established in accordance with section 2.4.3 of the SIP. The ML is based on the proper application of method-based analytical procedures for sample preparation and the absence of any matrix interferences. Other factors may be applied to the ML depending on the specific sample preparation steps employed. For example, the treatment typically applied in cases where there are matrix-effects is to dilute the sample or sample aliquot by a factor of ten. In such cases, this additional factor must be applied to the ML in the computation of the RL.

**Satellite Collection System** is the portion, if any, of a sanitary sewer system owned or operated by a different public agency than the agency that owns and operates the wastewater treatment facility that a sanitary sewer system is tributary to.

**Source of Drinking Water** is any water designated as municipal or domestic supply (MUN) in a Regional Water Board Basin Plan.

**Standard Deviation ( $\sigma$ )** is a measure of variability that is calculated as follows:

$$\sigma = (\sum[(x - \mu)^2]/(n - 1))^{0.5}$$

where:

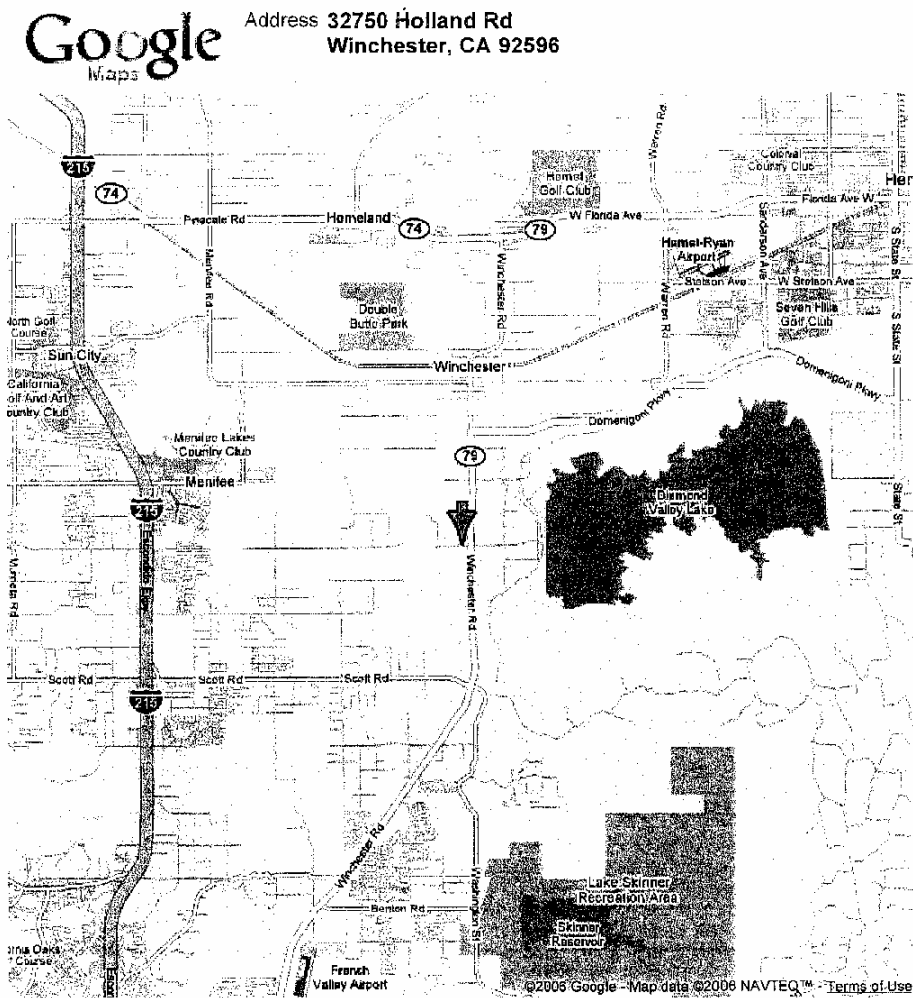
x is the observed value;

$\mu$  is the arithmetic mean of the observed values; and

n is the number of samples.

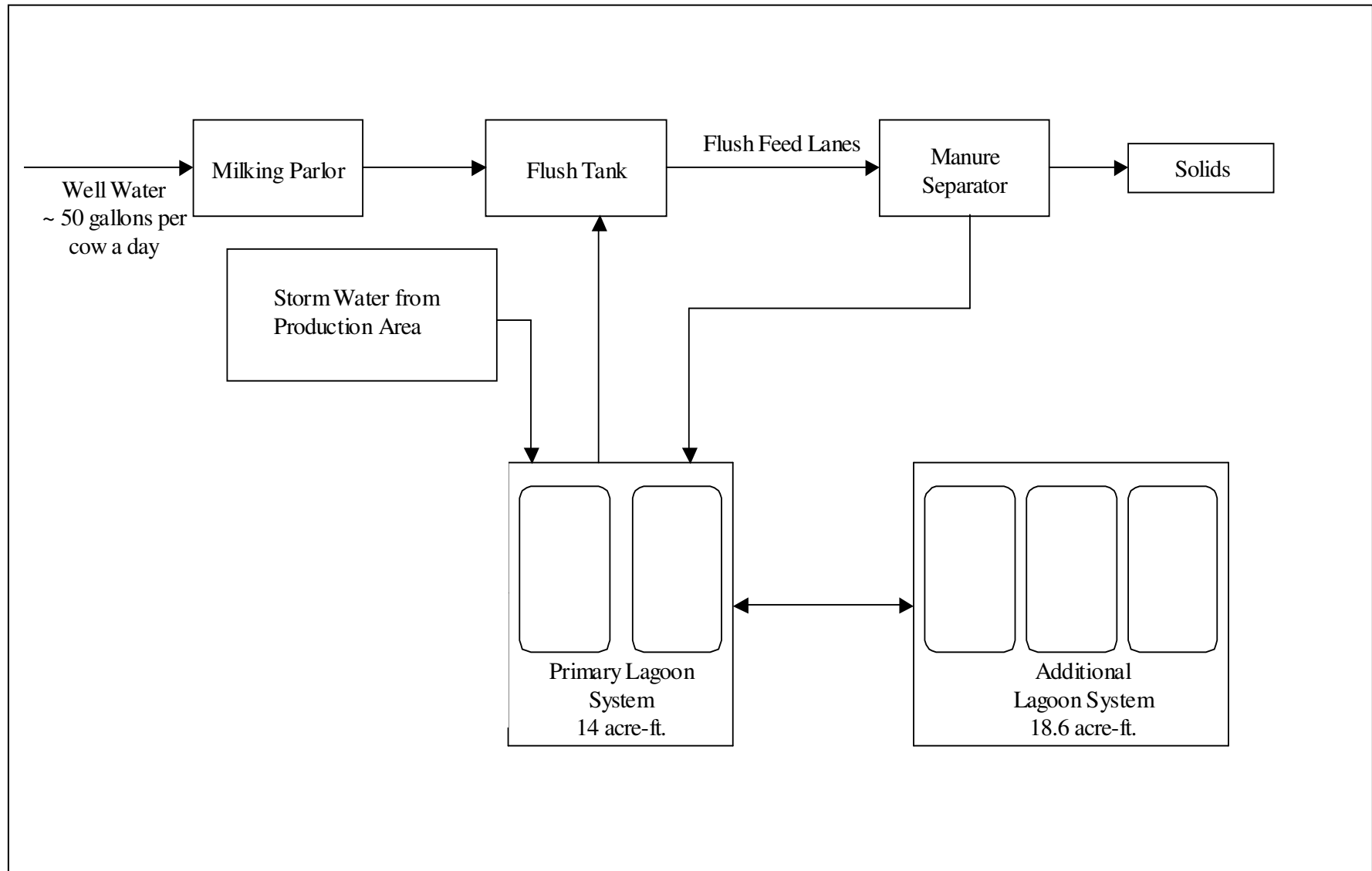
**Toxicity Reduction Evaluation (TRE)** is a study conducted in a step-wise process designed to identify the causative agents of effluent or ambient toxicity, isolate the sources of toxicity, evaluate the effectiveness of toxicity control options, and then confirm the reduction in toxicity. The first steps of the TRE consist of the collection of data relevant to the toxicity, including additional toxicity testing, and an evaluation of facility operations and maintenance practices, and best management practices. A Toxicity Identification Evaluation (TIE) may be required as part of the TRE, if appropriate. (A TIE is a set of procedures to identify the specific chemical(s) responsible for toxicity. These procedures are performed in three phases (characterization, identification, and confirmation) using aquatic organism toxicity tests.)

**ATTACHMENT B – MAP**





**ATTACHMENT C – WASTEWATER FLOW SCHEMATIC  
JACK AND MARK STIEFEL DAIRY  
ORDER NO. R9-2007-0009, NPDES NO. CA0109011**



Attachment C – Flow Chart



## **ATTACHMENT D –STANDARD PROVISIONS**

### **I. STANDARD PROVISIONS – PERMIT COMPLIANCE**

#### **A. Duty to Comply**

1. The Discharger must comply with all of the conditions of this Order. Any noncompliance constitutes a violation of the Clean Water Act (CWA) and the California Water Code and is grounds for enforcement action, for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. (40 C.F.R. § 122.41(a).)
2. The Discharger shall comply with effluent standards or prohibitions established under Section 307(a) of the CWA for toxic pollutants and with standards for sewage sludge use or disposal established under Section 405(d) of the CWA within the time provided in the regulations that establish these standards or prohibitions, even if this Order has not yet been modified to incorporate the requirement. (40 C.F.R. § 122.41(a)(1).)

#### **B. Need to Halt or Reduce Activity Not a Defense**

It shall not be a defense for a Discharger in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this Order. (40 C.F.R. § 122.41(c).)

#### **C. Duty to Mitigate**

The Discharger shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this Order that has a reasonable likelihood of adversely affecting human health or the environment. (40 C.F.R. § 122.41(d).)

#### **D. Proper Operation and Maintenance**

The Discharger shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the Discharger to achieve compliance with the conditions of this Order. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of backup or auxiliary facilities or similar systems that are installed by a Discharger only when necessary to achieve compliance with the conditions of this Order. (40 C.F.R. § 122.41(e).)

#### **E. Property Rights**

1. This Order does not convey any property rights of any sort or any exclusive privileges. (40 C.F.R. § 122.41(g).)

2. The issuance of this Order does not authorize any injury to persons or property or invasion of other private rights, or any infringement of state or local law or regulations. (40 C.F.R. § 122.5(c).)

## **F. Inspection and Entry**

The Discharger shall allow the Regional Water Board, State Water Board, United States Environmental Protection Agency (USEPA), and/or their authorized representatives (including an authorized contractor acting as their representative), upon the presentation of credentials and other documents, as may be required by law, to (40 C.F.R. § 122.41(i); Wat. Code, § 13383):

1. Enter upon the Discharger's premises where a regulated facility or activity is located or conducted, or where records are kept under the conditions of this Order (40 C.F.R. § 122.41(i)(1));
2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this Order (40 C.F.R. § 122.41(i)(2));
3. Inspect and photograph, at reasonable times, any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this Order (40 C.F.R. § 122.41(i)(3)); and
4. Sample or monitor, at reasonable times, for the purposes of assuring Order compliance or as otherwise authorized by the CWA or the Water Code, any substances or parameters at any location. (40 C.F.R. § 122.41(i)(4).)

## **G. Bypass**

1. Definitions
  - a. "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility. (40 C.F.R. § 122.41(m)(1)(i).)
  - b. "Severe property damage" means substantial physical damage to property, damage to the treatment facilities, which causes them to become inoperable, or substantial and permanent loss of natural resources that can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production. (40 C.F.R. § 122.41(m)(1)(ii).)
2. Bypass not exceeding limitations. The Discharger may allow any bypass to occur which does not cause exceedances of effluent limitations, but only if it is for essential maintenance to assure efficient operation. These bypasses are not subject to the

provisions listed in Standard Provisions – Permit Compliance I.G.3, I.G.4, and I.G.5 below. (40 C.F.R. § 122.41(m)(2).)

3. Prohibition of bypass. Bypass is prohibited, and the Regional Water Board may take enforcement action against a Discharger for bypass, unless (40 C.F.R. § 122.41(m)(4)(i)):
  - a. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage (40 C.F.R. § 122.41(m)(4)(i)(A));
  - b. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass that occurred during normal periods of equipment downtime or preventive maintenance (40 C.F.R. § 122.41(m)(4)(i)(B)); and
  - c. The Discharger submitted notice to the Regional Water Board as required under Standard Provisions – Permit Compliance I.G.5 below. (40 C.F.R. § 122.41(m)(4)(i)(C).)
4. The Regional Water Board may approve an anticipated bypass, after considering its adverse effects, if the Regional Water Board determines that it will meet the three conditions listed in Standard Provisions – Permit Compliance I.G.3 above. (40 C.F.R. § 122.41(m)(4)(ii).)
5. Notice
  - a. Anticipated bypass. If the Discharger knows in advance of the need for a bypass, it shall submit a notice, if possible at least 10 days before the date of the bypass. (40 C.F.R. § 122.41(m)(3)(i).)
  - b. Unanticipated bypass. The Discharger shall submit notice of an unanticipated bypass as required in Standard Provisions - Reporting V.E below (24-hour notice). (40 C.F.R. § 122.41(m)(3)(ii).)

## **H. Upset**

Upset means an exceptional incident in which there is unintentional and temporary noncompliance with technology based permit effluent limitations because of factors beyond the reasonable control of the Discharger. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation. (40 C.F.R. § 122.41(n)(1).)

1. Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology based permit effluent limitations if the requirements of Standard Provisions – Permit Compliance I.H.2 below are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review. (40 C.F.R. § 122.41(n)(2).)
2. Conditions necessary for a demonstration of upset. A Discharger who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs or other relevant evidence that (40 C.F.R. § 122.41(n)(3)):
  - a. An upset occurred and that the Discharger can identify the cause(s) of the upset (40 C.F.R. § 122.41(n)(3)(i));
  - b. The permitted facility was, at the time, being properly operated (40 C.F.R. § 122.41(n)(3)(ii));
  - c. The Discharger submitted notice of the upset as required in Standard Provisions – Reporting V.E.2.b below (24-hour notice) (40 C.F.R. § 122.41(n)(3)(iii)); and
  - d. The Discharger complied with any remedial measures required under Standard Provisions – Permit Compliance I.C above. (40 C.F.R. § 122.41(n)(3)(iv).)
3. Burden of proof. In any enforcement proceeding, the Discharger seeking to establish the occurrence of an upset has the burden of proof. (40 C.F.R. § 122.41(n)(4).)

## **II. STANDARD PROVISIONS – PERMIT ACTION**

### **A. General**

This Order may be modified, revoked and reissued, or terminated for cause. The filing of a request by the Discharger for modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any Order condition. (40 C.F.R. § 122.41(f).)

### **B. Duty to Reapply**

If the Discharger wishes to continue an activity regulated by this Order after the expiration date of this Order, the Discharger must apply for and obtain a new permit. (40 C.F.R. § 122.41(b).)

### **C. Transfers**

This Order is not transferable to any person except after notice to the Regional Water Board. The Regional Water Board may require modification or revocation and reissuance of the Order to change the name of the Discharger and incorporate such other requirements as may be necessary under the CWA and the Water Code. (40 C.F.R. § 122.41(l)(3); § 122.61.)

### **III. STANDARD PROVISIONS – MONITORING**

- A.** Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity. (40 C.F.R. § 122.41(j)(1).)
- B.** Monitoring results must be conducted according to test procedures under Part 136 or, in the case of sludge use or disposal, approved under Part 136 unless otherwise specified in Part 503 unless other test procedures have been specified in this Order. (40 C.F.R. § 122.41(j)(4); § 122.44(i)(1)(iv).)

### **IV. STANDARD PROVISIONS – RECORDS**

- A.** Except for records of monitoring information required by this Order related to the Discharger's sewage sludge use and disposal activities, which shall be retained for a period of at least five years (or longer as required by Part 503), the Discharger shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this Order, and records of all data used to complete the application for this Order, for a period of at least three (3) years from the date of the sample, measurement, report or application. This period may be extended by request of the Regional Water Board Executive Officer at any time. (40 C.F.R. § 122.41(j)(2).)

#### **B. Records of monitoring information shall include:**

1. The date, exact place, and time of sampling or measurements (40 C.F.R. § 122.41(j)(3)(i));
2. The individual(s) who performed the sampling or measurements (40 C.F.R. § 122.41(j)(3)(ii));
3. The date(s) analyses were performed (40 C.F.R. § 122.41(j)(3)(iii));
4. The individual(s) who performed the analyses (40 C.F.R. § 122.41(j)(3)(iv));
5. The analytical techniques or methods used (40 C.F.R. § 122.41(j)(3)(v)); and
6. The results of such analyses. (40 C.F.R. § 122.41(j)(3)(vi).)

**C. Claims of confidentiality for the following information will be denied (40 C.F.R. § 122.7(b)):**

1. The name and address of any permit applicant or Discharger (40 C.F.R. § 122.7(b)(1)); and
2. Permit applications and attachments, permits and effluent data. (40 C.F.R. § 122.7(b)(2).)

**V. STANDARD PROVISIONS – REPORTING**

**A. Duty to Provide Information**

The Discharger shall furnish to the Regional Water Board, State Water Board, or USEPA within a reasonable time, any information which the Regional Water Board, State Water Board, or USEPA may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this Order or to determine compliance with this Order. Upon request, the Discharger shall also furnish to the Regional Water Board, State Water Board, or USEPA copies of records required to be kept by this Order. (40 C.F.R. § 122.41(h); Wat. Code, § 13267.)

**B. Signatory and Certification Requirements**

1. All applications, reports, or information submitted to the Regional Water Board, State Water Board, and/or USEPA shall be signed and certified in accordance with Standard Provisions – Reporting V.B.2, V.B.3, V.B.4, and V.B.5 below. (40 C.F.R. § 122.41(k).)
2. All permit applications shall be signed by a responsible corporate officer. For the purpose of this section, a responsible corporate officer means: (i) A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation, or (ii) the manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures. (40 C.F.R. § 122.22(a)(1).)
3. All reports required by this Order and other information requested by the Regional Water Board, State Water Board, or USEPA shall be signed by a person described

in Standard Provisions – Reporting V.B.2 above, or by a duly authorized representative of that person. A person is a duly authorized representative only if:

- a. The authorization is made in writing by a person described in Standard Provisions – Reporting V.B.2 above (40 C.F.R. § 122.22(b)(1));
  - b. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company. (A duly authorized representative may thus be either a named individual or any individual occupying a named position.) (40 C.F.R. § 122.22(b)(2)); and
  - c. The written authorization is submitted to the Regional Water Board and State Water Board. (40 C.F.R. § 122.22(b)(3).)
4. If an authorization under Standard Provisions – Reporting V.B.3 above is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of Standard Provisions – Reporting V.B.3 above must be submitted to the Regional Water Board and State Water Board prior to or together with any reports, information, or applications, to be signed by an authorized representative. (40 C.F.R. § 122.22(c).)
5. Any person signing a document under Standard Provisions – Reporting V.B.2 or V.B.3 above shall make the following certification:

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.” (40 C.F.R. § 122.22(d).)

### **C. Monitoring Reports**

1. Monitoring results shall be reported at the intervals specified in the Monitoring and Reporting Program (Attachment E) in this Order. (40 C.F.R. § 122.22(l)(4).)
2. Monitoring results must be reported on a Discharge Monitoring Report (DMR) form or forms provided or specified by the Regional Water Board or State Water Board for reporting results of monitoring of sludge use or disposal practices. (40 C.F.R. § 122.41(l)(4)(i).)

3. If the Discharger monitors any pollutant more frequently than required by this Order using test procedures approved under Part 136 or, in the case of sludge use or disposal, approved under Part 136 unless otherwise specified in Part 503, or as specified in this Order, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR or sludge reporting form specified by the Regional Water Board. (40 C.F.R. § 122.41(l)(4)(ii).)
4. Calculations for all limitations, which require averaging of measurements, shall utilize an arithmetic mean unless otherwise specified in this Order. (40 C.F.R. § 122.41(l)(4)(iii).)

#### **D. Compliance Schedules**

Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this Order, shall be submitted no later than 14 days following each schedule date. (40 C.F.R. § 122.41(l)(5).)

#### **E. Twenty-Four Hour Reporting**

1. The Discharger shall report any noncompliance that may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the Discharger becomes aware of the circumstances. A written submission shall also be provided within five (5) days of the time the Discharger becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance. (40 C.F.R. § 122.41(l)(6)(i).)
2. The following shall be included as information that must be reported within 24 hours under this paragraph (40 C.F.R. § 122.41(l)(6)(ii)):
  - a. Any unanticipated bypass that exceeds any effluent limitation in this Order. (40 C.F.R. § 122.41(l)(6)(ii)(A).)
  - b. Any upset that exceeds any effluent limitation in this Order. (40 C.F.R. § 122.41(l)(6)(ii)(B).)
3. The Regional Water Board may waive the above-required written report under this provision on a case-by-case basis if an oral report has been received within 24 hours. (40 C.F.R. § 122.41(l)(6)(iii).)



## **F. Planned Changes**

The Discharger shall give notice to the Regional Water Board as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required under this provision only when (40 C.F.R. § 122.41(l)(1)):

1. The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in section 122.29(b) (40 C.F.R. § 122.41(l)(1)(i)); or
2. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants that are not subject to effluent limitations in this Order. (40 C.F.R. § 122.41(l)(1)(ii).)
3. The alteration or addition results in a significant change in the Discharger's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan. (40 C.F.R. § 122.41(l)(1)(iii).)

## **G. Anticipated Noncompliance**

The Discharger shall give advance notice to the Regional Water Board or State Water Board of any planned changes in the permitted facility or activity that may result in noncompliance with General Order requirements. (40 C.F.R. § 122.41(l)(2).)

## **H. Other Noncompliance**

The Discharger shall report all instances of noncompliance not reported under Standard Provisions – Reporting V.C, V.D, and V.E above at the time monitoring reports are submitted. The reports shall contain the information listed in Standard Provision – Reporting V.E above. (40 C.F.R. § 122.41(l)(7).)

## **I. Other Information**

When the Discharger becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Regional Water Board, State Water Board, or USEPA, the Discharger shall promptly submit such facts or information. (40 C.F.R. § 122.41(l)(8).)

## **VI. STANDARD PROVISIONS – ENFORCEMENT**

- A.** The Regional Water Board is authorized to enforce the terms of this permit under several provisions of the Water Code, including, but not limited to, sections 13385, 13386, and 13387.

## **VII. ADDITIONAL PROVISIONS – NOTIFICATION LEVELS**

### **A. Non-Municipal Facilities**

Existing manufacturing, commercial, mining, and silvicultural Dischargers shall notify the Regional Water Board as soon as they know or have reason to believe (40 C.F.R. § 122.42(a)):

1. That any activity has occurred or will occur that would result in the discharge, on a routine or frequent basis, of any toxic pollutant that is not limited in this Order, if that discharge will exceed the highest of the following "notification levels" (40 C.F.R. § 122.42(a)(1)):
  - a. 100 micrograms per liter ( $\mu\text{g/L}$ ) (40 C.F.R. § 122.42(a)(1)(i));
  - b. 200  $\mu\text{g/L}$  for acrolein and acrylonitrile; 500  $\mu\text{g/L}$  for 2,4-dinitrophenol and 2-methyl-4,6-dinitrophenol; and 1 milligram per liter ( $\text{mg/L}$ ) for antimony (40 C.F.R. § 122.42(a)(1)(ii));
  - c. Five (5) times the maximum concentration value reported for that pollutant in the Report of Waste Discharge (40 C.F.R. § 122.42(a)(1)(iii)); or
  - d. The level established by the Regional Water Board in accordance with section 122.44(f). (40 C.F.R. § 122.42(a)(1)(iv).)
2. That any activity has occurred or will occur that would result in the discharge, on a non-routine or infrequent basis, of any toxic pollutant that is not limited in this Order, if that discharge will exceed the highest of the following "notification levels" (40 C.F.R. § 122.42(a)(2)):
  - a. 500 micrograms per liter ( $\mu\text{g/L}$ ) (40 C.F.R. § 122.42(a)(2)(i));
  - b. 1 milligram per liter ( $\text{mg/L}$ ) for antimony (40 C.F.R. § 122.42(a)(2)(ii));
  - c. Ten (10) times the maximum concentration value reported for that pollutant in the Report of Waste Discharge (40 C.F.R. § 122.42(a)(2)(iii)); or
  - d. The level established by the Regional Water Board in accordance with section 122.44(f). (40 C.F.R. § 122.42(a)(2)(iv).)